

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

CARL FOUST,

Plaintiff,

v.

CALIFORNIA MEDICAL FACILITY, et
al.

Defendants.

No. 2:21-CV-0540-DJC-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to Eastern District of California local rules.

On August 26, 2024, the Magistrate Judge filed findings and recommendations herein which were served on the parties, and which contained notice that the parties may file objections within the time specified therein. No objections to the findings and recommendations have been filed.

The Court has reviewed the file and finds the findings and recommendations to be supported by the record and the Magistrate Judge's analysis. However, Plaintiff is cautioned that given the number of complaints filed in this matter, any further dismissal at the screening stage is likely to be without further leave to amend.

Accordingly, IT IS HEREBY ORDERED as follows:

1. The findings and recommendations filed August 26, 2024, ECF No. 105, are adopted in full.
2. Defendants California Medical Facility and California Department of Corrections and Rehabilitation are dismissed with prejudice as immune under the Eleventh Amendment.
3. Defendants Trent Allen, Sui Quineoa, O. Bright, and A. Martinez are dismissed with prejudice for failure to state a claim.
4. Plaintiff's third amended complaint is dismissed with leave to amend.
5. Plaintiff is granted thirty days from the date of service of this order to file an amended complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice; the amended complaint must bear the docket number assigned this case and must be labeled "Fourth Amended Complaint." The Fourth Amended Complaint shall be limited to Plaintiff's claims against Defendant Aquilian relating to medication prescribed in June 2022 and Defendant Kahlon relating to denial of a neck brace in February 2018 and interference with medical treatment. Failure to file an amended complaint in accordance with this order may result in dismissal of this action.
6. The Clerk of the Court is directed to terminate California Medical Facility as a defendant and to update the docket to add Aquilian and Kahlon as defendants.
7. This matter is referred back to the assigned Magistrate Judge for further proceedings.

IT IS SO ORDERED.

Dated: January 17, 2025


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE